

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

PETER WIRTH, AS PERSONAL
REPRESENTATIVE FOR THE ESTATE OF
SANTIAGO SEBASTIAN ORTIZ,
SANDRA CORREA AND SANTIAGO ORTIZ,

No. 1:20-cv-01340-LF-KK

Plaintiffs,

v.

PHC-LAS CRUCES, INC., D/B/A MEMORIAL
MEDICAL CENTER OF LAS CRUCES,
LIFEPOINT HEALTH, INC., LIFEPOINT RC, INC.,
VITTORIO TALEON, MD
IFEYNWA OBI, CNM,
LA CLINICA DE FAMILIA, INC.,
FIRST STEP CENTER, INC,
LINDA VASQUEZ, R.N.

Defendants.

**DEFENDANTS PHC-LAS CRUCES, INC. D/B/A MEMORIAL MEDICAL CENTER
OF LAS CRUCES AND LINDA VASQUEZ, RN'S MOTION FOR A 6-DAY
EXTENSION OF TIME TO RESPOND TO COMPLAINT**

Pursuant to Fed. R. Civ. P. 6(b), Defendants PHC-Las Cruces, Inc. d/b/a Memorial Medical Center of Las Cruces ("MMC") and Linda Vasquez, RN ("Nurse Vasquez"), by and through their attorneys of record, respectfully move for an extension of time to answer or otherwise respond to Plaintiffs' Complaint until Monday, January 4, 2021. In support of this motion, Defendants MMC and Nurse Vasquez state as follows:

1. Plaintiffs filed their Complaint on July 20, 2020 in the First Judicial District Court, State of New Mexico.
2. Defendant MMC filed a Motion to Dismiss the Complaint for improper venue on October 2, 2020.

3. Nurse Vasquez filed a Joinder of MMC's Motion to Dismiss on October 26, 2020.
4. The Court denied the Motion to Dismiss on December 10, 2020.
5. Following the Court's decision, and pursuant to New Mexico Rule of Civil Procedure 12(A), MMC and Nurse Vasquez's response to Plaintiffs' Complaint was due on December 24, 2020.
6. In light of the holidays, on December 21, 2020, Plaintiffs and Defendants both agreed to extend the deadline for MMC and Nurse Vasquez to respond to Plaintiffs' Complaint until January 4, 2021.
7. On December 22, 2020, the United States Attorney filed a Notice of Removal.
8. Accordingly, MMC and Nurse Vasquez's response to Plaintiffs' Complaint is due on December 29, 2020, as per Federal Rule of Civil Procedure 81(c).
9. Because of the Christmas holiday, because of the timing of when the Notice of Removal was filed and when Defendants' response to Plaintiffs' Complaint is now due, and because of the parties' prior agreement and the anticipated extension until January 4, 2021, Defense Counsel requests the same modest extension from December 29, 2020 until January 4, 2021.
10. Defendants have attempted to confirm Plaintiffs' Counsel's approval of this Motion via emails on December 23 and December 28, and two phone calls and two messages on December 28, but have not yet received a response. Plaintiffs did previously agree to extend the deadline for MMC and Nurse Vasquez to respond to Plaintiffs' Complaint until January 4, 2021.
11. These circumstances present good cause for a modest extension of time. No party will suffer prejudice as a result of this brief extension.

CONCLUSION

WHEREFORE, Defendants MMC and Nurse Vasquez respectfully request that the Court grant a 6-day extension of time to answer or otherwise respond to the Complaint, up to and including January 4, 2021.

Dated: December 28, 2020

Respectfully submitted,

s/ Kevin J. Kuhn

Kevin J. Kuhn (NM Bar No. 147864)

Wheeler Trigg O'Donnell LLP

370 Seventeenth Street, Suite 4500

Denver, Colorado 80202

Telephone: 303.244.1800

Facsimile: 303.244.1879

Email: kuhn@wtotrial.com

Attorneys for Defendants,

PHC-Las Cruces, Inc. d/b/a Memorial Medical
Center and Linda Vasquez, RN

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on December 28, 2020, I filed the foregoing pleading electronically through the CM/ECF system and that a copy was emailed to the following parties/counsel:

<p>Joseph Cervantes Joseph Isaac Cervantes Scherr Legate, LC 901 E. University Avenue, Suite 965-L Las Cruces, NM 88001 Telephone: 575.526.5600 Facsimile: 575.523.9317 joe@cervantesscherrlegate.com jisaac@scherrlegate.com</p> <p><i>Attorneys for Plaintiffs</i></p>	<p>B. Todd Thompson Ian C.B. Davis Joseph A. Wright Thompson Miller & Simpson PLC 734 W. Main Street, Suite 400 Louisville, KY 40202 (502) 585-9900 tthompson@tmslawplc.com idavis@tmslawplc.com jwright@tmslawplc.com</p> <p><i>Counsel for LifePoint Health, Inc., & LifePoint RC, Inc.</i></p>
<p>Eric M. Sommer Sommer, Udall, Hardwick & Jones, P.A. P.O. Box 1984 200 West Mercy St., Suite 129 Santa Fe, NM 87504-1234 (505) 982-4676 ems@sommerudall.com</p> <p><i>Counsel for LifePoint Health, Inc., & LifePoint RC, Inc.</i></p>	<p>CaraLyn Banks Kemp Smith Law 880 S. Telshor Blvd., Suite 220 Las Cruces, NM 88011 (575) 527-0023 caralyn.banks@kempsmith.com</p> <p><i>Attorney for Defendant Ifeyinwa Obi, CNM Defendant Vittorio Taleon, M.D. Defendant La Clinica de Familia, Inc.</i></p>

s/ Kevin J. Kuhn